THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 9964 of 2007

O R D E R: (Per the Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed seeking a writ of Certiorari calling for records relating to the order dated 20.2.2007 passed in O.A. No. 87 of 2007 and to quash the said order as illegal and arbitrary.

The respondent herein filed O.A. No. 87 of 2007 before the A.P. Administrative Tribunal seeking a direction to the respondents – petitioners herein to fix her pay as Sub Assistant (AEO-Gr.II) with effect from 15.7.1996 and consequential benefits in terms of the orders of the orders dated 24.1.2005 in Memo No. 7237/Agrril.IV/2004-6 and to extend all the consequential benefits. The case of the respondent is that she has been appointed as Field Assistant but posted as Laboratory Assistant. In the provisional seniority lists issued on 8.12.1993, 31.3.1997 and 16.4.1998 also she was shown as Field Assistant but her promotion is denied by the authorities stating that she is a Laboratory Assistant and the rules do not contemplate any promotion for Laboratory Assistant as there is no promotion channel. The Tribunal, having considered the matter, held that the respondent – applicant is originally appointed as Field Assistant and therefore she is

entitled for all the benefits on par with the applicants in O.A. No. 3855 of 1996. It is further held by the Tribunal that even if the respondent – applicant is considered as Lab Assistant for any reason, as the question whether the Laboratory Assistants have to be upgraded as Sub-Assistants was considered by the Tribunal in O.A.Nos. 8139 and 7300 of 1997 and it was held that the Lab Assistants cannot be denied promotion and they should be given promotion as Sub Assistants and their seniority has to be fixed giving notional benefits and thereafter basing upon that seniority they should also be considered for promotion to the higher posts, the case of the applicant has to be considered on par with the applicants in O.A. Nos. 8139 and 7300 of 1997. Challenging the same, this writ petition is filed.

It is contended by the learned Government Pleader for Services I that the respondent is posted to work as Lab Assistant and she was discharging the duties of Lab Assistant and the Rules do not provide for promotion of Lab Assistants as Sub Assistants and therefore the Tribunal ought not to have given the direction as stated above. However, we are not in agreement with the said contention of the learned Government Pleader. A perusal of the material available on record clearly goes to show that the respondent is originally appointed as Field Assistant but she was asked to discharge the duties of Lab Assistant. It is also the contention of the respondent that she was shown as Field Assistant in the provisional seniority lists

issued on 8.12.1993, 31.3.1997 and 16.4.1998. Further, in O.A. 3855 of 1996 the Tribunal considered the question whether the Field Assistants can be given posting as Sub-Assistants and by order dated 14.7.2003 the Tribunal directed to upgrade the posts of the applicants i.e. Field Assistants to that of Sub-Assistants provided they are in service in the year 1991. The question whether the Laboratory Assistants have to be upgraded as Sub-Assistants also was considered by the Tribunal in O.A. Nos. 8139 and 7300 of 1997 and the Tribunal held that the Lab Assistants cannot be denied promotion and they should be given promotion as Sub Assistants and their seniority has to be fixed giving notional benefits and thereafter basing upon that seniority they should also be considered for promotion to the higher posts taking into consideration the letter addressed by the Joint Director of Agriculture to the Commissioner of Agriculture on 7.11.20023 and also the Memo of the Commissioner and Director of Agriculture dated 1.5.2003. Therefore, we are of the considered view that the Tribunal has gone into the matter *in extenso* while passing the order directing the petitioners herein to consider the case of the respondent on par with the similarly situated persons. However, in view of the fact that she has been appointed as Field Assistant but she has been posted to work as Lab Assistant, it would suffice if the direction issued by the Tribunal is modified to the extent that the case of the respondent for the next promotion from the post of Field

Assistant be considered and her scale be fixed as such in her own turn as per the Rules and if she is otherwise eligible, within a period of six months from the date of receipt of a copy of this order.

With the above modification in the order passed by the Tribunal, the writ petition is disposed of. No costs.

T. MEENA KUMARI, J.

G. CHANDRAIAH, J.

Date: 11-6-2007.

MVB.